

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TWIANIE ROBERTS

Plaintiff,

v

CASE NO. 2:08-CV-10992
HON. JOHN FEIKENS

CONTINENTAL AIR TRANSPORT CO,
A Illinois Corporation, d/b/a CONTINENTAL
AIRPORT EXPRESS, INC., DENISE COLLINS,
Individually and ROBERT JOHNIGAN, Individually,

Defendants.

THE THURSWELL LAW FIRM, PLLC

Brent Thomas (P67028)
Attorney for Plaintiff
1000 Town Center, Suite 500
Southfield, MI 48075-1221
(248) 354-2222

PLUNKETT COONEY

Edward J. Higgins (P46143)
Atty for Defs Continental Air & Denise Collins
535 Griswold – Suite 2400
Detroit, MI 48226
(313) 983-4919

**DEFENDANTS CONTINENTAL AIR TRANSPORT, CO
AND DENISE COLLINS' ANSWER TO COMPLAINT**

Defendants Continental Air Transport, Inc. and Denise Collins, by and through their attorneys, Plunkett Cooney, answers Plaintiff's Complaint in the same-numbered order, as follows:

COUNT I

JURISDICTION AND VENUE/GENERAL AVERMENTS

1. Defendants neither admit nor deny the allegations contained in paragraph one for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiff to her proofs.

2. Defendants deny as untrue the allegation that this Court has jurisdiction over these Defendants. Defendants neither admit nor deny the allegations contained in paragraph two for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiffs to her proofs.

3. No contest.

4. Defendants admit that all events and occurrences giving rise to the cause of action herein alleged occurred in the City of Chicago, Cook County, State of Illinois. Defendants neither admit nor deny the allegations contained in paragraph four for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiff to her proofs.

5. Defendants deny as untrue the allegation that venue is proper in this Court. Defendants neither admit nor deny the allegations contained in paragraph five for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiff to her proofs.

6. Defendants neither admit nor deny the allegations contained in paragraph six for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiff to her proofs.

7. Defendants admit that Defendant Continental Air Transport, Co., maintains its principal place of business in the City of Chicago, Cook County, State of Illinois, as well as the remaining allegations contained in paragraph seven.

8. Defendants neither admit nor deny the allegations contained in paragraph eight for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiff to her proofs.

9. Defendants admit the allegations contained in paragraph nine.

10. Defendants neither admit nor deny the allegations contained in paragraph ten for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiff to her proofs.

11. Defendants neither admit nor deny the allegations contained in paragraph eleven for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiff to her proofs.

12. Defendants neither admit nor deny the allegations contained in paragraph twelve for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiff to her proofs.

13. Defendants neither admit nor deny the allegations contained in paragraph thirteen for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiff to her proofs.

14. Defendants neither admit nor deny the allegations contained in paragraph fourteen for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiff to her proofs.

COUNT II

15. Defendants hereby incorporate by reference paragraphs one through fourteen as if fully stated herein.

16. Defendants neither admit nor deny the allegations contained in paragraph sixteen for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiff to her proofs.

17. Defendants neither admit nor deny the allegations contained in paragraph seventeen for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiff to her proofs.

18. Defendants neither admit nor deny the allegations contained in paragraph eighteen for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiff to her proofs.

19. Defendants neither admit nor denies the allegations contained in paragraph nineteen for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiff to her proofs.

20. Defendants deny any allegations of careless, reckless and/or negligent actions, as well as any allegations of direct and/or proximate causation. Defendants neither admit nor deny the allegations contained in paragraph twenty for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiff to her proofs.

21. Defendants neither admit nor deny the allegations contained in paragraph twenty-one for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiff to her proofs.

22. Defendants neither admit nor deny the allegations contained in paragraph twenty-two for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiff to her proofs.

23. Defendants deny as untrue the allegations contained in paragraph twenty-three, including sub-paragraphs (a) through (h).

24. Defendants deny the allegations contained in paragraph twenty-four as untrue, to the extent that they are intended to be directed at these Defendants. Defendants neither admit nor deny the allegations contained in paragraph twenty-four for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiff to her proofs.

25. Defendants deny the allegations contained in paragraph twenty-five as untrue, to the extent that they are intended to be directed at these Defendants. Defendants neither admit nor deny the allegations contained in paragraph twenty-five for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiff to her proofs.

26. Defendants deny the allegations contained in paragraph twenty-six as untrue, to the extent that they are intended to be directed at these Defendants. Defendants neither admit nor deny the allegations contained in paragraph twenty-six for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiff to her proofs.

27. Defendants neither admit nor deny the allegations contained in paragraph twenty-seven for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiffs to her proofs.

28. Defendants deny the allegations contained in paragraph twenty-eight as untrue.

29. Defendants neither admit nor deny the allegations contained in paragraph twenty-nine for lack of knowledge or information sufficient to form a belief as to the truth of same, leaving Plaintiff to her proofs.

WHEREFORE, Defendants respectfully requests that this Honorable Court enter a judgment of no cause of action in its favor together with an award of costs and attorney fees so wrongfully incurred.

By: s/Edward J. Higgins
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P46143

DATED: May 15, 2008

Detroit.08668.81315.1307299-1

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AFFIRMATIVE AND/OR SPECIAL DEFENSES

Defendants Continental Air Transport, Inc. and Denise Collins, by and through their attorneys, Plunkett Cooney, plead the following Affirmative and/or Special Defenses, which may be raised at trial in this matter.

1. These Defendants are entitled to dismissal pursuant to Federal Rule of Civil Procedure 12(b)(2) for the reason that this Court does not have personal jurisdiction over these Defendants.

2. These Defendants are entitled to dismissal pursuant to Federal Rule of Civil Procedure 12(b)(3) for the reason that venue is improper in the

United State District Court for the Eastern District of Michigan, pursuant to 28 USC §1391.

3. At the time of the occurrence complained of, and immediately prior thereto, Plaintiff and/or others were negligent, which directly and proximately caused or contributed to the occurrence giving rise to this action and the resulting injuries and damages, if any, sustained by Plaintiff. Consequently, Plaintiff's recovery, if any, must be reduced in proportion to said negligence.

4. The injuries, if any, sustained by Plaintiff do not constitute serious impairment of body function or permanent serious disfigurement within the meaning of the Michigan No-Fault Act and, therefore, Defendants cannot be held liable for personal injuries allegedly sustained by Plaintiff.

5. Plaintiff's claim may be barred, pursuant to MCLA 500.3135(2)(b), by virtue of the fact that she was more than 50% at fault in causing the occurrence giving rise to this action.

6. Plaintiff may be precluded, pursuant to MCLA 600.2959, from recovering non-economic damages in this matter by virtue of the fact that her percentage of fault in causing the accident was greater than the aggregate fault of all other persons involved in the occurrence.

7. Any damages suffered by Plaintiff as a result of the circumstances pled in Plaintiff's Complaint were the direct result of Plaintiff's and/or her guardians' failure to take reasonable action to prevent or minimize such damages and, by such failure, they failed to mitigate her damages.

8. Plaintiff's claims for economic loss are barred, in whole or in part, by MCLA 500.3135.

9. Plaintiff has failed to state a claim upon which relief can be granted.

10. There are no genuine issues of material fact and Defendants are entitled to summary disposition as a matter of law.

11. Defendants reserve the right to supplement and/or amend these affirmative defenses as further information becomes available through discovery and investigation.

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DATED: May 15, 2008

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RELIANCE UPON JURY DEMAND

Defendants Continental Air Transport, Inc. and Denise Collins, by and
through undersigned counsel relies on the Jury Demand previously filed herein.

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DATED: May 15, 2008
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CERTIFICATE OF SERVICE

Edward J. Higgins, attorney with the law firm of PLUNKETT & COONEY, P.C., being first duly sworn, deposes and says that on the 15th day of May 2008, he caused a copy of this document to be served upon all parties of record, and that such service was made electronically upon each counsel of record so registered with the United States District Court and via U.S. Mail to any counsel not registered to receive electronic copies from the court, by enclosing same in a sealed envelope with first class postage fully prepaid, addressed to the above, and depositing said envelope and its contents in a receptacle for the US Mail.

PLUNKETT & COONEY, P.C.

By:

s/Edward J. Higgins
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